

## HOUSE BILL NO. 416

INTRODUCED BY MACDONALD, GETZ, P. BECK, BERRY, BRUEGGEMAN

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN BIODIESEL PRODUCED FROM WASTE VEGETABLE OIL FEEDSTOCK FROM THE SPECIAL FUEL TAX; PROVIDING DEFINITIONS; PROVIDING REGISTRATION AND REPORTING REQUIREMENTS; AMENDING SECTION 15-70-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Exemption from special fuel tax.** (1) Subject to the conditions of this section, a special biodiesel fuel producer is exempt from the special fuel tax imposed by 15-70-321 on biodiesel produced by the producer from waste vegetable oil feedstock.

(2) This section does not apply to special fuel used for agricultural purposes pursuant to 15-70-362.

(3) To qualify for the exemption under this section, the special biodiesel fuel producer shall:

(a) register annually with the department; and

(b) report on the amount of biodiesel produced and used by the producer in a calendar year by February 15 of the succeeding year.

**Section 2.** Section 15-70-301, MCA, is amended to read:

**"15-70-301. Definitions.** As used in this part, the following definitions apply:

(1) "Agricultural use" means use of special fuel by a person who earns income while engaging in the business of farming or ranching and who files farm or income reports for tax purposes as required by the United States internal revenue service.

(2) (a) "Biodiesel" means a fuel produced from monoalkyl esters of long-chain fatty acids derived from vegetable oils, renewable lipids, animal fats, or any combination of those ingredients. The fuel must meet the requirements of ASTM D6751, also known as the Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, as adopted by the American society for testing and materials.

(b) Biodiesel is also known as "B-100".

(3) "Biodiesel blend" means a blend of biodiesel and petroleum diesel fuel that is at least 2% biodiesel.

1 (4) "Bond" means:

2 (a) a bond executed by a special fuel user as principal with a corporate surety qualified under the laws  
3 of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of  
4 this part, including the payment of all taxes, penalties, and other obligations of the special fuel user arising out  
5 of this part; or

6 (b) a deposit with the department by the special fuel user, under terms and conditions that the  
7 department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured  
8 by the federal deposit insurance corporation.

9 (5) "Bulk delivery" means placing special fuel not intended for resale in storage or containers. The term  
10 does not mean special fuel delivered into the supply tank of a motor vehicle.

11 (6) "Cardtrol" or "keylock" means a unique device intended to allow access to a special fuel dealer's  
12 unattended pump or dispensing unit for the purpose of delivery of special fuel to an authorized user of the unique  
13 device.

14 (7) "Department" means the department of transportation.

15 (8) (a) "Distributed" means, at the time that special fuel is withdrawn, the withdrawal from a storage tank,  
16 a refinery, or a terminal storage in this state for sale or use in this state or for the transportation other than by  
17 pipeline to another refinery in this state or a pipeline terminal in this state of the following:

18 (i) special fuel refined, produced, manufactured, or compounded in this state and placed in storage tanks  
19 in this state;

20 (ii) special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at the  
21 refinery or terminal; or

22 (iii) special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

23 (b) When withdrawn from the storage tanks, refinery, or terminal, the special fuel may be distributed only  
24 by a person who is the holder of a valid distributor's license.

25 (c) Special fuel imported into this state, other than that special fuel placed in storage at a refinery or  
26 pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.

27 (9) (a) "Distributor" means:

28 ~~(a)~~(i) a person who engages in the business in this state of producing, refining, manufacturing, or  
29 compounding special fuel for sale, use, or distribution;

30 ~~(b)~~(ii) an importer who imports special fuel for sale, use, or distribution;

1           ~~(c)~~(iii) a person who engages in the wholesale distribution of special fuel in this state and chooses to  
2 become licensed to assume the Montana state special fuel tax liability; and

3           ~~(d)~~(iv) an exporter.

4           (b) The term does not include a special biodiesel fuel producer who produces biodiesel from waste  
5 vegetable oil feedstock in this state for the operation of motor vehicles owned or controlled by the person upon  
6 the public roads and highways of the state.

7           (10) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a  
8 motor vehicle, special fuel received from a refinery or pipeline terminal within Montana.

9           (11) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle,  
10 special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale,  
11 use, or consumption outside Montana.

12           (12) "Import" means to first receive special fuel into possession or custody after its arrival and coming  
13 to rest at a destination within the state or to first receive any special fuel shipped or transported into this state from  
14 a point of origin outside this state other than in the fuel supply tank of a motor vehicle.

15           (13) "Importer" means a person who transports or arranges for the transportation of special fuel into  
16 Montana for sale, use, or distribution.

17           (14) "Improperly imported fuel" means special fuel that is:

18           (a) consigned to a Montana destination and imported into the state without the distributor first having  
19 obtained a Montana special fuel distributor license as required in 15-70-341; or

20           (b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15,  
21 chapter 70.

22           (15) "Motor vehicle" means all vehicles that are operated upon the public highways or streets of this state  
23 and that are operated in whole or in part by the combustion of special fuel.

24           (16) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership, or  
25 corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or both,  
26 as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied  
27 to joint-stock companies and corporations, the officers.

28           (17) "Public roads and highways of this state" means all streets, roads, highways, and related structures:

29           (a) built and maintained with appropriated funds of the United States, the state of Montana, or any  
30 political subdivision of the state;

1 (b) dedicated to public use;

2 (c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

3 (d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any  
4 political subdivision of the state.

5 (18) "Special biodiesel fuel producer" means a person who produces less than 2,500 gallons annually  
6 of biodiesel fuel from waste vegetable oil feedstock for the operation of motor vehicles owned or controlled by  
7 the person upon the public roads and highways of the state.

8 ~~(18)~~(19) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel  
9 or any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid  
10 petroleum gas, when actually sold for use in motor vehicles operating upon the public roads and highways within  
11 the state of Montana. The term special fuel includes biodiesel and additives of all types when the additive is mixed  
12 or blended into special fuel, regardless of the additive's classifications or uses.

13 ~~(19)~~(20) "Special fuel dealer" means:

14 (a) a person in the business of handling special fuel who delivers any part of the fuel into the fuel supply  
15 tank or tanks of a motor vehicle not then owned or controlled by the person;

16 (b) a person who sells special fuel at a location unattended by the dealer through an unattended pump  
17 by use of a cardtrol, keylock, or similar device; or

18 (c) a person who provides a facility, with or without attended services, from which more than one special  
19 fuel user obtains special fuel for use in the fuel supply tank of a motor vehicle not then controlled by the dealer.

20 ~~(20)~~(21) (a) "Special fuel user" means a person who consumes in this state special fuel for the operation  
21 of motor vehicles owned or controlled by the person upon the highways of this state.

22 (b) The term does not include:

23 (i) the U.S. government, a state, a county, an incorporated city or town, or a school district of this state;

24 or

25 (ii) a special biodiesel fuel producer who produces biodiesel from waste vegetable oil feedstock for the  
26 operation of motor vehicles owned or controlled by the person upon the public roads and highways of the state.

27 ~~(21)~~(22) "Use", when the term relates to a special fuel user, means the consumption by a special fuel user  
28 of special fuels in the operation of a motor vehicle on the highways of this state.

29 (23) "Waste vegetable oil" means used cooking oil gathered from restaurants or commercial food  
30 processors."

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2 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an

3 integral part of Title 15, chapter 70, part 3, and the provisions of Title 15, chapter 70, part 3, apply to [section 1].

**5** NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2009.

7        NEW SECTION. **Section 5. Applicability.** [This act] applies to biodiesel produced from waste vegetable  
8        oil feedstock produced after June 30, 2009.

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